



NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC-2023-0085]

RIN 3150-AK99

List of Approved Spent Fuel Storage Casks: NAC International, Inc. MAGNASTOR® Storage System, Certificate of Compliance No. 1031, Amendment Nos. 11 and 12 and Revisions to Amendment Nos. 0 through 9

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending its spent fuel storage regulations by revising the NAC International, Inc. MAGNASTOR® Storage System listing within the “List of approved spent fuel storage casks” to include Amendment Nos. 11 and 12 and revisions to Amendment Nos. 0 through 9 to Certificate of Compliance No. 1031. Amendment No. 11 amends the certificate of compliance to add a new concrete cask, transfer cask, fuel baskets and revised contents. Amendment No. 11 also adds a definition for the concrete cask lid, revises the definition for the concrete cask to exclude the lid, adds a definition for the storage cask, and provides alternate fabrication criteria and techniques for the concrete cask lid. Amendment No. 12 and revisions to Amendment Nos. 0 through 9 add definitions for the storage cask and concrete cask lid, revise the definition of the concrete cask, and provide alternate fabrication criteria and techniques for the concrete cask lid to the certificate of compliance.

DATES: This direct final rule is effective [INSERT DATE 75 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*], unless significant adverse comments are received by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE

FEDERAL REGISTER]. If this direct final rule is withdrawn as a result of such comments, timely notice of the withdrawal will be published in the *Federal Register*. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Comments received on this direct final rule will also be considered to be comments on a companion proposed rule published in the Proposed Rules section of this issue of the *Federal Register*.

ADDRESSES: Submit your comments, identified by Docket ID NRC-2023-0085, at <https://www.regulations.gov>. If your material cannot be submitted using <https://www.regulations.gov>, call or email the individuals listed in the FOR FURTHER INFORMATION CONTACT section of this document for alternate instructions.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: Bernard White, Office of Nuclear Materials Safety and Safeguards, telephone: 301-415-6577, email: Bernard.White@nrc.gov and Irene Wu, Office of Nuclear Materials Safety and Safeguards, telephone: 301-415-1951, email: Irene.Wu@nrc.gov. Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

SUPPLEMENTARY INFORMATION:

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I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2023-0085 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for Docket ID NRC-2023-0085. Address questions about NRC dockets to Dawn Forder, telephone: 301-415-3407, email: Dawn.Forder@nrc.gov. For technical questions contact the individuals listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to PDR.Resource@nrc.gov. For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the "Availability of Documents" section.

- **NRC's PDR:** You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8 am and 4 pm eastern time, Monday through Friday, except Federal holidays.

B. Submitting Comments

Please include Docket ID NRC-2023-0085 in your comment submission. The NRC requests that you submit comments through the Federal rulemaking website at <https://www.regulations.gov>. If your material cannot be submitted using <https://www.regulations.gov>, call or email the individuals listed in the FOR FURTHER INFORMATION CONTACT section of this document for alternate instructions.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <https://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Rulemaking Procedure

This rule is limited to the changes contained in Amendment Nos. 11 and 12 and revisions to Amendment Nos. 0 through 9 to Certificate of Compliance No. 1031 and does not include other aspects of the NAC International, Inc. MAGNASTOR® Storage System design. The NRC is using the “direct final rule procedure” to issue this amendment because it represents a limited and routine change to an existing certificate of compliance that is expected to be non-controversial. Adequate protection of public health and safety continues to be reasonably assured. The amendments to the rule will become effective on **[INSERT DATE 75 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. However, if the NRC receives any significant adverse

comment on this direct final rule by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**, then the NRC will publish a document that withdraws this action and will subsequently address the comments received in a final rule as a response to the companion proposed rule published in the Proposed Rules section of this issue of the *Federal Register* or as otherwise appropriate. In general, absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

a) The comment causes the NRC to reevaluate (or reconsider) its position or conduct additional analysis;

b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

c) The comment raises a relevant issue that was not previously addressed or considered by the NRC.

2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

3) The comment causes the NRC to make a change (other than editorial) to the rule, certificate of compliance, or technical specifications.

III. Background

Section 218(a) of the Nuclear Waste Policy Act of 1982, as amended, requires that “[t]he Secretary [of the Department of Energy] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.” Section 133 of the Nuclear Waste Policy Act states, in part, that “[t]he Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 219(a) [sic: 218(a)] for use at the site of any civilian nuclear power reactor.”

To implement this mandate, the Commission approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule that added a new subpart K in part 72 of title 10 of the *Code of Federal Regulations* (10 CFR) entitled “General License for Storage of Spent Fuel at Power Reactor Sites” (55 FR 29181; July 18, 1990). This rule also established a new subpart L in 10 CFR part 72 entitled “Approval of Spent Fuel Storage Casks,” that contains procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule on November 21, 2008 (73 FR 70587), that approved the NAC International, Inc. MAGNASTOR® Storage System design and added it to the list of NRC-approved cask designs in § 72.214 as Certificate of Compliance No. 1031.

IV. Discussion of Changes

On July 14, 2020, NAC International, Inc. submitted a request to the NRC to add Amendment No. 11 to Certificate of Compliance No. 1031. NAC International, Inc. supplemented its request on August 23, 2021, January 11, 2022, March 18, 2022, April

18, 2022, and July 15, 2022. Amendment No. 11 amends the certificate of compliance as follows:

1. Adds a seventh concrete overpack (CC7) and a lightweight MAGNASTOR® transfer cask (LMTC).
2. Increases the maximum heat load for the system when using CC7 and the LMTC.
3. Adds new loading patterns.
4. Adds new 81-assembly and 89-assembly boiling-water reactor (BWR) spent fuel basket designs and associated loading patterns.
5. Removes existing 87-assembly and 82-assembly BWR basket designs.
6. Adds a new BWR damaged fuel basket design with a capacity of up to 81 undamaged BWR fuel assemblies.
7. Adds a new damaged fuel can for BWR fuel.
8. Adds a definition for concrete cask lid.
9. Revises the definition for concrete cask to exclude the lid.
10. Adds a definition for storage cask.
11. Provides alternate fabrication criteria and techniques for the concrete cask lid.

On January 24, 2022, NAC International, Inc. submitted a request to the NRC to add Amendment No. 12 to Certificate of Compliance No. 1031. NAC International, Inc. supplemented its request on March 18, 2022, and April 18, 2022. As part of its request on March 18, 2022, as supplemented on April 18, 2022, and August 4, 2022, NAC International, Inc. also requested to revise Amendment Nos. 0 through 9 to Certificate of Compliance No. 1031. Amendment No. 12 amends the certificate of compliance as follows:

1. Adds a definition for concrete cask lid.
2. Revises the definition for concrete cask to exclude the lid.

3. Adds a definition for storage cask.
4. Provides alternate fabrication criteria and techniques for the concrete cask lid.

Revision 2 to Amendment Nos. 0 through 3 and Revision 1 to Amendments Nos. 4 through 9 revise the certificate of compliance to incorporate the changes made by Amendment 12.

As documented in the preliminary safety evaluation reports, the NRC performed safety evaluations of the proposed certificate of compliance amendment requests. The NRC determined that these amendments do not reflect a significant change in design or fabrication of the cask. Specifically, the NRC determined that the design of the casks would continue to maintain confinement, shielding, and criticality control in the event of each evaluated accident condition. The NRC found there will be no significant change in the types or amounts of any effluent released, no significant increase in the individual or cumulative radiation exposure, and no significant increase in the potential for or consequences from radiological accidents. Therefore, any resulting occupational exposure or offsite dose rates from the implementation of Amendment Nos. 11 and 12 and revisions to Amendment Nos. 0 through 9 would remain well within the limits specified by 10 CFR part 20, "Standards for Protection Against Radiation."

The NRC determined that the amended NAC International, Inc. MAGNASTOR® Storage System cask design, when used under the conditions specified in the certificate of compliance, the technical specifications, and the NRC's regulations, will meet the requirements of 10 CFR part 72; therefore, adequate protection of public health and safety will continue to be reasonably assured. When this direct final rule becomes effective, persons who hold a general license under § 72.210 may, consistent with the license conditions under § 72.212, load spent nuclear fuel into NAC International, Inc. MAGNASTOR® Storage System casks that meet the criteria of the revised Amendment Nos. 0 through 9 and newly issued Amendment Nos. 11 and 12 to Certificate of Compliance No. 1031.

V. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995 (Pub. L. 104-113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this direct final rule, the NRC revises the NAC International, Inc. MAGNASTOR® Storage System design listed in § 72.214, “List of approved spent fuel storage casks.” This action does not constitute the establishment of a standard that contains generally applicable requirements.

VI. Agreement State Compatibility

Under the “Agreement State Program Policy Statement” approved by the Commission on October 2, 2017, and published in the *Federal Register* on October 18, 2017 (82 FR 48535), this rule is classified as Compatibility Category NRC – Areas of Exclusive NRC Regulatory Authority. The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the Atomic Energy Act of 1954, as amended, or the provisions of 10 CFR chapter I. Therefore, compatibility is not required for program elements in this category.

VII. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111-274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, “Plain Language in Government Writing,” published June 10, 1998 (63 FR 31885).

VIII. Environmental Assessment and Finding of No Significant Impact

Under the National Environmental Policy Act of 1969, as amended, and the NRC's regulations in 10 CFR part 51, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions," the NRC has determined that this direct final rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. The NRC has made a finding of no significant impact on the basis of this environmental assessment.

A. The Action

The action is to amend § 72.214 to revise the NAC International, Inc. MAGNASTOR® Storage System listing within the "List of approved spent fuel storage casks" to include Amendment Nos. 11 and 12 and to include revisions to Amendment Nos. 0 through 9 to Certificate of Compliance No. 1031.

B. The Need for the Action

This direct final rule amends the certificate of compliance for the NAC International, Inc. MAGNASTOR® Storage System design within the list of approved spent fuel storage casks to allow power reactor licensees to store spent fuel at reactor sites in casks with the approved modifications under a general license. Specifically, Amendment No. 11 revises the certificate of compliance to add a new concrete cask, transfer cask, fuel baskets and revised contents. Amendment No. 11 also adds a definition for the concrete cask lid, revises the definition for the concrete cask to exclude the lid, adds a definition for the storage cask, and provides alternate fabrication criteria and techniques for the concrete cask lid. Amendment No. 12 and the revisions to Amendment Nos. 0 through 9 add definitions for the storage cask and concrete cask lid,

revise the definition of the concrete cask, and provide alternate fabrication criteria and techniques for the concrete cask lid to the certificate of compliance.

C. Environmental Impacts of the Action

On July 18, 1990 (55 FR 29181), the NRC issued an amendment to 10 CFR part 72 to provide for the storage of spent fuel under a general license in cask designs approved by the NRC. The potential environmental impact of using NRC-approved storage casks was analyzed in the environmental assessment for the 1990 final rule. The environmental assessment for Amendment Nos. 11 and 12 and revisions to Amendment Nos. 0 through 9 tiers off of the environmental assessment for the July 18, 1990, final rule. Tiering on past environmental assessments is a standard process under the National Environmental Policy Act of 1969, as amended.

The NAC International, Inc. MAGNASTOR® Storage System is designed to mitigate the effects of design basis accidents that could occur during storage. Design basis accidents account for human-induced events and the most severe natural phenomena reported for the site and surrounding area. Postulated accidents analyzed for an independent spent fuel storage installation, the type of facility that a holder of a power reactor operating license would store spent fuel in casks in accordance with 10 CFR part 72, can include tornado winds and tornado-generated missiles, a design basis earthquake, a design basis flood, an accidental cask drop, lightning effects, fire, explosions, and other incidents.

This amendment does not reflect a significant change in design or fabrication of the cask. Because there are no significant design or process changes, any resulting occupational exposure or offsite dose rates from the implementation of Amendment Nos. 11 and 12 and revisions to Amendment Nos. 0 through 9 would remain well within the 10 CFR part 20 limits. The NRC has also determined that the design of the cask as modified by this rule would maintain confinement, shielding, and criticality control in the event of an accident. Therefore, the proposed changes will not result in any radiological

or non-radiological environmental impacts that significantly differ from the environmental impacts evaluated in the environmental assessment supporting the July 18, 1990, final rule. There will be no significant change in the types or significant revisions in the amounts of any effluent released, no significant increase in the individual or cumulative radiation exposures, and no significant increase in the potential for, or consequences from, radiological accidents. The NRC documented its safety findings in the preliminary safety evaluation report.

D. Alternative to the Action

The alternative to this action is to deny approval of Amendment Nos. 11 and 12 and revisions to Amendment Nos. 0 through 9 and not issue the direct final rule. Consequently, any 10 CFR part 72 general licensee that seeks to load spent nuclear fuel into the NAC International, Inc. MAGNASTOR® Storage System in accordance with the changes described in proposed Amendment Nos. 11 and 12 and revisions to Amendment Nos. 0 through 9, including those licensees with fuel already loaded in casks that need these revisions, would have to request an exemption from the requirements of §§ 72.212 and 72.214. Under this alternative, interested licensees would have to prepare, and the NRC would have to review, a separate exemption request, thereby increasing the administrative burden upon the NRC and the costs to each licensee. The environmental impacts would be the same as the proposed action.

E. Alternative Use of Resources

Approval of Amendment Nos. 11 and 12 and revisions to Amendment Nos. 0 through 9 to Certificate of Compliance No. 1031 would result in no irreversible commitment of resources.

F. Agencies and Persons Contacted

No agencies or persons outside the NRC were contacted in connection with the

preparation of this environmental assessment.

G. Finding of No Significant Impact

The environmental impacts of the action have been reviewed under the requirements in the National Environmental Policy Act of 1969, as amended, and the NRC's regulations in subpart A of 10 CFR part 51, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions." Based on the foregoing environmental assessment, the NRC concludes that this direct final rule, "List of Approved Spent Fuel Storage Casks: NAC International, Inc. MAGNASTOR® Storage System, Certificate of Compliance No. 1031, Amendment Nos. 11 and 12 and Revisions to Amendment Nos. 0 through 9," will not have a significant effect on the human environment. Therefore, the NRC has determined that an environmental impact statement is not necessary for this direct final rule.

IX. Paperwork Reduction Act Statement

This direct final rule does not contain any new or amended collections of information subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). Existing collections of information were approved by the Office of Management and Budget, approval number 3150-0132.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid Office of Management and Budget control number.

X. Regulatory Flexibility Certification

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the NRC certifies that this direct final rule will not, if issued, have a significant economic impact on a substantial number of small entities. This direct final rule affects only nuclear power plant licensees and NAC International, Inc. These entities do not fall within the scope of the definition of small entities set forth in the Regulatory Flexibility Act or the size standards established by the NRC (§ 2.810).

XI. Regulatory Analysis

On July 18, 1990 (55 FR 29181), the NRC issued an amendment to 10 CFR part 72 to provide for the storage of spent nuclear fuel under a general license in cask designs approved by the NRC. Any nuclear power reactor licensee can use NRC-approved cask designs to store spent nuclear fuel if 1) it notifies the NRC in advance; 2) the spent fuel is stored under the conditions specified in the cask's certificate of compliance; and 3) the conditions of the general license are met. A list of NRC-approved cask designs is contained in § 72.214. On November 21, 2008 (73 FR 70587), the NRC issued an amendment to 10 CFR part 72 that approved the NAC International, Inc. MAGNASTOR® Storage System design by adding it to the list of NRC-approved cask designs in § 72.214.

On July 14, 2020, and as supplemented on August 23, 2021, January 11, 2022, March 18, 2022, April 18, 2022, and July 15, 2022, NAC International, Inc. submitted a request for Amendment No. 11 to amend the MAGNASTOR® Storage System. On January 24, 2022, and as supplemented on March 18, 2022 and April 18, 2022, NAC International, Inc. submitted a request for Amendment No. 12 to amend the MAGNASTOR® Storage System. Lastly, on March 18, 2022, and as supplemented on April 18, 2022 and August 4, 2022, NAC International, Inc. submitted a request to revise

Amendment Nos. 0 through 9 of the MAGNASTOR® Storage System. All of these changes are described in Section IV, "Discussion of Changes," of this document.

The alternative to this action is to withhold approval of Amendment Nos. 11 and 12 and revisions to Amendment Nos. 0 through 9 and to require any 10 CFR part 72 general licensee seeking to load spent nuclear fuel into the NAC International, Inc. MAGNASTOR® Storage System under the changes described in Amendment Nos. 11 and 12 and revisions to Amendment Nos. 0 through 9 to request an exemption from the requirements of §§ 72.212 and 72.214. Under this alternative, each interested 10 CFR part 72 licensee would have to prepare, and the NRC would have to review, a separate exemption request, thereby increasing the administrative burden upon the NRC and the costs to each licensee.

Approval of this direct final rule is consistent with previous NRC actions. Further, as documented in the preliminary safety evaluation reports and environmental assessment, this direct final rule will have no adverse effect on public health and safety or the environment. This direct final rule has no significant identifiable impact or benefit on other government agencies. Based on this regulatory analysis, the NRC concludes that the requirements of this direct final rule are commensurate with the NRC's responsibilities for public health and safety and the common defense and security. No other available alternative is believed to be as satisfactory; therefore, this action is recommended.

XII. Backfitting

The NRC has determined that this direct final rule does not constitute backfitting under 10 CFR Part 72. Certificate of compliance holders like NAC International, Inc. are not within the scope of the backfit rule in § 72.62. Additionally, Amendment Nos. 11 and 12 are outside the scope of backfitting because they apply only to new casks and are voluntary for existing users. Although general licensees that are affected by the revisions

to Amendment Nos. 0-9 are within the scope of the backfitting regulations in § 72.62, the affected licensees have stated that they will voluntarily adopt the revisions, and therefore, this direct final rule does not constitute a backfit for those licensees.

This direct final rule revises Certificate of Compliance No. 1031 for the MAGNASTOR® Storage System, as currently listed in § 72.214, to add Amendment Nos. 11 and 12 and revisions to Amendment Nos. 0 through 9. Amendment Nos. 11 and 12 and revisions to Amendment Nos. 0 through 9 to Certificate of Compliance No. 1031 for the NAC International, Inc. MAGNASTOR® Storage System were initiated by NAC International, Inc. and were not submitted in response to new NRC requirements or an NRC request for amendment. Amendment Nos. 11 and 12 apply only to new casks fabricated and used under Amendment Nos. 11 and 12. These changes do not affect existing users of the NAC International, Inc. MAGNASTOR® Storage System, and the current Amendment No. 10 continues to be effective for existing users. While current users of this storage system may comply with the new requirements in Amendment Nos. 11 and 12, this would be a voluntary decision on the part of current users. Although NAC International, Inc. has manufactured casks under the existing Certificate of Compliance No. 1031, Amendment Nos. 0 through 9, NAC International, Inc., as the certificate of compliance holder, is not within the scope of backfitting under 10 CFR 72.62.

General licensees are entities that are within the scope of the backfitting regulations in 10 CFR 72.62. However, according to NAC International, Inc., no general licensees have purchased the MAGNASTOR® Storage Systems under Certificate of Compliance No. 1031, Amendment Nos. 0 through 5 and Amendment No. 8, that are, in part, the subject of these revisions. Therefore, the changes in Certificate of Compliance No. 1031, Amendment Nos. 0 through 5 and Amendment No. 8, that are approved in this direct final rule, do not fall within the definition of backfitting under 10 CFR 72.62.

Dominion Energy Kewaunee at the Kewaunee independent spent fuel storage installation and ZionSolutions at its independent spent fuel storage installation are two general licensees using Amendment No. 6 that could be affected by issuance of

Revision 1 to Amendment No. 6. In its letter to NAC International, Inc., Dominion Energy Kewaunee stated that it would voluntarily adopt Revision 1 to Amendment No. 6. ZionSolutions stated it intends to rely on issuance of Revision 1 to Amendment No. 6 and Amendment No. 12 to reconcile the lid licensing issue and close the open action in its corrective action program. The NRC interprets these letters to mean that the licensees will voluntarily comply with Revision 1 to Amendment No. 6. Therefore, the issuance of Revision 1 to Amendment No. 6 does not fall within the definition of backfitting under 10 CFR 72.62.

Arizona Public Service Company at the Palo Verde independent spent fuel storage installation and Duke Energy at the Catawba and McGuire independent spent fuel storage installations are general licensees using Amendment No. 7 that could be affected by issuance of Revision 1 to Amendment No. 7. In its letter to NAC International, Inc., both Arizona Public Service Company and Duke Energy stated that they intend to implement Revision 1 to Amendment No. 7. The NRC interprets these letters to mean that the licensees will voluntarily comply with Revision 1 to Amendment No. 7. Therefore, issuance of Revision 1 to Amendment No. 7 does not fall within the definition of backfitting under 10 CFR 72.62.

Constellation Energy Generation at its Three Mile Island Unit 1 independent spent fuel storage installation is the only general licensee using Amendment No. 9 that could be affected by issuance of Revision 1 to Amendment No. 9. In its letter to NAC International, Inc., Constellation Energy Generation stated that it intends to implement Revision 1 to Amendment No. 9 in a timely manner after issuance of the revision. The NRC interprets this letter to mean that the licensee will voluntarily comply with Revision 1 to Amendment No. 9. Therefore, issuance of Revision 1 to Amendment No. 9 does not fall within the definition of backfitting under 10 CFR 72.62.

For these reasons, Amendment Nos. 11 and 12 and revisions to Amendment Nos. 0 through 9 to Certificate of Compliance No. 1031 do not constitute backfitting under § 72.62. Accordingly, the NRC does not need to prepare a backfit analysis for this

rulemaking.

XIII. Congressional Review Act

This direct final rule is not a rule as defined in the Congressional Review Act.

XIV. Availability of Documents

The documents identified in the following table are available to interested persons as indicated.

DOCUMENT	ADAMS ACCESSION NO. / FEDERAL REGISTER CITATION
Documents Related to Initial Certificate (Amendment No. 0), Revision 2	
Proposed Certificate of Compliance No. 1031, Amendment No. 0, Revision 2	ML22220A151
Proposed Certificate of Compliance No. 1031, Amendment No. 0, Revision 2, Appendix A: Technical Specifications for the MAGNASTOR® Storage System	ML22220A152
Proposed Certificate of Compliance No. 1031, Amendment No. 0, Revision 2, Appendix B: Technical Specifications for the MAGNASTOR® Storage System	ML22220A154
Preliminary Safety Evaluation Report for NAC International, Inc. MAGNASTOR® Storage System: Certificate of Compliance No. 1031, Docket No. 72-1031, Revision to Amendment Nos. 0–8	ML22227A174
NAC International, Supplement to NAC's Amendment Request for the NAC International MAGNASTOR® Cask System Amendment No. 12, dated March 18, 2022	ML22077A769
NAC International, Submittal of RAI Response to Amendment Request for NAC International MAGNASTOR® Cask System Amendment No. 12, dated April 18, 2022	ML22108A197
NAC International, MAGNASTOR® Cask System Users CoC Amendments 0 thru 9 Intent to Adopt Letters, dated August 4, 2022	ML22216A110
Documents Related to Amendment No. 1, Revision 2	
Proposed Certificate of Compliance No. 1031, Amendment No. 1, Revision 2	ML22220A156

Proposed Certificate of Compliance No. 1031, Amendment No. 1, Revision 2, Appendix A: Technical Specifications for the MAGNASTOR® Storage System	ML22220A157
Proposed Certificate of Compliance No. 1031, Amendment No. 1, Revision 2, Appendix B: Technical Specifications for the MAGNASTOR® Storage System	ML22220A158
Preliminary Safety Evaluation Report for NAC International, Inc. MAGNASTOR® Storage System: Certificate of Compliance No. 1031, Docket No. 72-1031, Revision to Amendment Nos. 0–8	ML22227A174
NAC International, Supplement to NAC's Amendment Request for the NAC International MAGNASTOR® Cask System Amendment No. 12, dated March 18, 2022	ML22077A769
NAC International, Submittal of RAI Response to Amendment Request for NAC International MAGNASTOR® Cask System Amendment No. 12, dated April 18, 2022	ML22108A197
NAC International, MAGNASTOR® Cask System Users CoC Amendments 0 thru 9 Intent to Adopt Letters, dated August 4, 2022	ML22216A110
Documents Related to Amendment No. 2, Revision 2	
Proposed Certificate of Compliance No. 1031, Amendment No. 2, Revision 2	ML22220A159
Proposed Certificate of Compliance No. 1031, Amendment No. 2, Revision 2, Appendix A: Technical Specifications for the MAGNASTOR® Storage System	ML22220A160
Proposed Certificate of Compliance No. 1031, Amendment No. 2, Revision 2, Appendix B: Technical Specifications for the MAGNASTOR® Storage System	ML22220A161
Preliminary Safety Evaluation Report for NAC International, Inc. MAGNASTOR® Storage System: Certificate of Compliance No. 1031, Docket No. 72-1031, Revision to Amendment Nos. 0–8	ML22227A174
NAC International, Supplement to NAC's Amendment Request for the NAC International MAGNASTOR® Cask System Amendment No. 12, dated March 18, 2022	ML22077A769
NAC International, Submittal of RAI Response to Amendment Request for NAC International MAGNASTOR® Cask System Amendment No. 12, dated April 18, 2022	ML22108A197
NAC International, MAGNASTOR® Cask System Users CoC Amendments 0 thru 9 Intent to Adopt Letters, dated August 4, 2022	ML22216A110
Documents Related to Amendment No. 3, Revision 2	

Proposed Certificate of Compliance No. 1031, Amendment No. 3, Revision 2	ML22220A163
Proposed Certificate of Compliance No. 1031, Amendment No. 3, Revision 2, Appendix A: Technical Specifications for the MAGNASTOR® Storage System	ML22220A164
Proposed Certificate of Compliance No. 1031, Amendment No. 3, Revision 2, Appendix B: Technical Specifications for the MAGNASTOR® Storage System	ML22220A165
Preliminary Safety Evaluation Report for NAC International, Inc. MAGNASTOR® Storage System: Certificate of Compliance No. 1031, Docket No. 72-1031, Revision to Amendment Nos. 0–8	ML22227A174
NAC International, Supplement to NAC's Amendment Request for the NAC International MAGNASTOR® Cask System Amendment No. 12, dated March 18, 2022	ML22077A769
NAC International, Submittal of RAI Response to Amendment Request for NAC International MAGNASTOR® Cask System Amendment No. 12, dated April 18, 2022	ML22108A197
NAC International, MAGNASTOR® Cask System Users CoC Amendments 0 thru 9 Intent to Adopt Letters, dated August 4, 2022	ML22216A110
Documents Related to Amendment No. 4, Revision 1	
Proposed Certificate of Compliance No. 1031, Amendment No. 4, Revision 1	ML22220A166
Proposed Certificate of Compliance No. 1031, Amendment No. 4, Revision 1, Appendix A: Technical Specifications for the MAGNASTOR® Storage System	ML22220A167
Proposed Certificate of Compliance No. 1031, Amendment No. 4, Revision 1, Appendix B: Technical Specifications for the MAGNASTOR® Storage System	ML22220A168
Preliminary Safety Evaluation Report for NAC International, Inc. MAGNASTOR® Storage System: Certificate of Compliance No. 1031, Docket No. 72-1031, Revision to Amendment Nos. 0–8	ML22227A174
NAC International, Supplement to NAC's Amendment Request for the NAC International MAGNASTOR® Cask System Amendment No. 12, dated March 18, 2022	ML22077A769
NAC International, Submittal of RAI Response to Amendment Request for NAC International MAGNASTOR® Cask System Amendment No. 12, dated April 18, 2022	ML22108A197
NAC International, MAGNASTOR® Cask System Users CoC Amendments 0 thru 9 Intent to Adopt Letters, dated August 4, 2022	ML22216A110

Documents Related to Amendment No. 5, Revision 1	
Proposed Certificate of Compliance No. 1031, Amendment No. 5, Revision 1	ML22220A169
Proposed Certificate of Compliance No. 1031, Amendment No. 5, Revision 1, Appendix A: Technical Specifications for the MAGNASTOR® Storage System	ML22220A170
Proposed Certificate of Compliance No. 1031, Amendment No. 5, Revision 1, Appendix B: Technical Specifications for the MAGNASTOR® Storage System	ML22220A171
Preliminary Safety Evaluation Report for NAC International, Inc. MAGNASTOR® Storage System: Certificate of Compliance No. 1031, Docket No. 72-1031, Revision to Amendment Nos. 0–8	ML22227A174
NAC International, Supplement to NAC's Amendment Request for the NAC International MAGNASTOR® Cask System Amendment No. 12, dated March 18, 2022	ML22077A769
NAC International, Submittal of RAI Response to Amendment Request for NAC International MAGNASTOR® Cask System Amendment No. 12, dated April 18, 2022	ML22108A197
NAC International, MAGNASTOR® Cask System Users CoC Amendments 0 thru 9 Intent to Adopt Letters, dated August 4, 2022	ML22216A110
Documents Related to Amendment No. 6, Revision 1	
Proposed Certificate of Compliance No. 1031, Amendment No. 6, Revision 1	ML22220A172
Proposed Certificate of Compliance No. 1031, Amendment No. 6, Revision 1, Appendix A: Technical Specifications for the MAGNASTOR® Storage System	ML22220A173
Proposed Certificate of Compliance No. 1031, Amendment No. 6, Revision 1, Appendix B: Technical Specifications for the MAGNASTOR® Storage System	ML22220A174
Preliminary Safety Evaluation Report for NAC International, Inc. MAGNASTOR® Storage System: Certificate of Compliance No. 1031, Docket No. 72-1031, Revision to Amendment Nos. 0–8	ML22227A174
NAC International, Supplement to NAC's Amendment Request for the NAC International MAGNASTOR® Cask System Amendment No. 12, dated March 18, 2022	ML22077A769
NAC International, Submittal of RAI Response to Amendment Request for NAC International MAGNASTOR® Cask System Amendment No. 12, dated April 18, 2022	ML22108A197

NAC International, MAGNASTOR® Cask System Users CoC Amendments 0 thru 9 Intent to Adopt Letters, dated August 4, 2022	ML22216A110
Documents Related to Amendment No. 7, Revision 1	
Proposed Certificate of Compliance No. 1031, Amendment No. 7, Revision 1	ML22220A175
Proposed Certificate of Compliance No. 1031, Amendment No. 7, Revision 1, Appendix A: Technical Specifications for the MAGNASTOR® Storage System	ML22220A176
Proposed Certificate of Compliance No. 1031, Amendment No. 7, Revision 1, Appendix B: Technical Specifications for the MAGNASTOR® Storage System	ML22220A177
Preliminary Safety Evaluation Report for NAC International, Inc. MAGNASTOR® Storage System: Certificate of Compliance No. 1031, Docket No. 72-1031, Revision to Amendment Nos. 0–8	ML22227A174
NAC International, Supplement to NAC's Amendment Request for the NAC International MAGNASTOR® Cask System Amendment No. 12, dated March 18, 2022	ML22077A769
NAC International, Submittal of RAI Response to Amendment Request for NAC International MAGNASTOR® Cask System Amendment No. 12, dated April 18, 2022	ML22108A197
NAC International, MAGNASTOR® Cask System Users CoC Amendments 0 thru 9 Intent to Adopt Letters, dated August 4, 2022	ML22216A110
Documents Related to Amendment No. 8, Revision 1	
Proposed Certificate of Compliance No. 1031, Amendment No. 8, Revision 1	ML22220A178
Proposed Certificate of Compliance No. 1031, Amendment No. 8, Revision 1, Appendix A: Technical Specifications for the MAGNASTOR® Storage System	ML22220A179
Proposed Certificate of Compliance No. 1031, Amendment No. 8, Revision 1, Appendix B: Technical Specifications for the MAGNASTOR® Storage System	ML22220A180
Preliminary Safety Evaluation Report for NAC International, Inc. MAGNASTOR® Storage System: Certificate of Compliance No. 1031, Docket No. 72-1031, Revision to Amendment Nos. 0–8	ML22227A174
NAC International, Supplement to NAC's Amendment Request for the NAC International MAGNASTOR® Cask System Amendment No. 12, dated March 18, 2022	ML22077A769

NAC International, Submittal of RAI Response to Amendment Request for NAC International MAGNASTOR® Cask System Amendment No. 12, dated April 18, 2022	ML22108A197
NAC International, MAGNASTOR® Cask System Users CoC Amendments 0 thru 9 Intent to Adopt Letters, dated August 4, 2022	ML22216A110
Documents Related to Amendment No. 9, Revision 1	
Proposed Certificate of Compliance No. 1031, Amendment No. 9, Revision 1	ML22220A181
Proposed Certificate of Compliance No. 1031, Amendment No. 9, Revision 1, Appendix A: Technical Specifications for the MAGNASTOR® Storage System	ML22220A182
Proposed Certificate of Compliance No. 1031, Amendment No. 9, Revision 1, Appendix B: Technical Specifications for the MAGNASTOR® Storage System	ML22220A183
Preliminary Safety Evaluation Report for NAC International, Inc. MAGNASTOR® Storage System: Certificate of Compliance No. 1031, Docket No. 72-1031, Revision to Amendment No. 9	ML22220A184
NAC International, Supplement to NAC's Amendment Request for the NAC International MAGNASTOR® Cask System Amendment No. 12, dated March 18, 2022	ML22077A769
NAC International, Submittal of RAI Response to Amendment Request for NAC International MAGNASTOR® Cask System Amendment No. 12, dated April 18, 2022	ML22108A197
NAC International, MAGNASTOR® Cask System Users CoC Amendments 0 thru 9 Intent to Adopt Letters, dated August 4, 2022	ML22216A110
Documents Related to Amendment No. 11	
Proposed Certificate of Compliance No. 1031, Amendment No. 11	ML22220A185
Proposed Certificate of Compliance No. 1031, Amendment No. 11, Appendix A: Technical Specifications for the MAGNASTOR® Storage System	ML22220A186
Proposed Certificate of Compliance No. 1031, Amendment No. 11, Appendix B: Technical Specifications for the MAGNASTOR® Storage System	ML22220A187
Preliminary Safety Evaluation Report for NAC International, Inc. MAGNASTOR® Storage System: Certificate of Compliance No. 1031, Docket No. 72-1031, Amendment No. 11	ML22220A188

NAC International, Submission of a Request to Amend Certificate of Compliance No. 1031 for the NAC International MAGNASTOR® Cask System, Docket No. 72-1031, dated July 14, 2020	ML20210M079 (package)
NAC International, Submission of RAI Responses for the NAC International MAGNASTOR® Cask System Amendment No. 11, Docket No. 72-1031, dated August 23, 2021	ML21242A053 (package)
NAC International, Submission of Supplemental Information to the RAI for the NAC International MAGNASTOR® Cask System Amendment No. 11, Docket No. 72-1031, dated January 11, 2022	ML22018A059
NAC International, Submission of Supplemental Information to the RAI for the NAC International MAGNASTOR® Cask System Amendment No. 11, Docket No. 72-1031, dated July 15, 2022	ML22196A022 (package)
NAC International, Supplement to NAC's Amendment Request for the NAC International MAGNASTOR® Cask System Amendment No. 12, dated March 18, 2022	ML22077A769
NAC International, Submittal of RAI Response to Amendment Request for NAC International MAGNASTOR® Cask System Amendment No. 12, dated April 18, 2022	ML22108A197
Documents Related to Amendment No. 12	
Proposed Certificate of Compliance No. 1031, Amendment No. 12	ML22220A189
Proposed Certificate of Compliance No. 1031, Amendment No. 12, Appendix A: Technical Specifications for the MAGNASTOR® Storage System	ML22220A190
Proposed Certificate of Compliance No. 1031, Amendment No. 12, Appendix B: Technical Specifications for the MAGNASTOR® Storage System	ML22220A191
Preliminary Safety Evaluation Report for NAC International, Inc. MAGNASTOR® Storage System: Certificate of Compliance No. 1031, Docket No. 72-1031, Amendment No. 12	ML22220A192
NAC International, Submission of an Amendment Request for the NAC International MAGNASTOR® Cask System Amendment No. 12, dated January 24, 2022	ML22024A374
NAC International, Supplement to NAC's Amendment Request for the NAC International MAGNASTOR® Cask System Amendment No. 12, dated March 18, 2022	ML22077A769
NAC International, Submittal of RAI Response to Amendment Request for NAC International MAGNASTOR® Cask System Amendment No. 12, dated April 18, 2022	ML22108A197

Other Documents	
User Need Memorandum for Amendment Nos. 11 and 12, and Revision to Amendment Nos. 0 through 9 for the MAGNASTOR® Storage System, dated March 7, 2023	ML22220A150
Final Rule, “Storage of Spent Fuel in NRC-Approved Storage Casks at Power Reactor Sites,” published July 18, 1990	55 FR 29181
Final Rule, “List of Approved Spent Fuel Storage Casks: MAGNASTOR Addition,” published November 21, 2008	73 FR 70587
Revision to Policy Statement, “Agreement State Program Policy Statement; Correction,” published October 18, 2017	82 FR 48535
Presidential Memorandum, “Plain Language in Government Writing,” published June 10, 1998	63 FR 31885

The NRC may post materials related to this document, including public comments, on the Federal rulemaking website at <https://www.regulations.gov> under Docket ID NRC-2023-0085. In addition, the Federal rulemaking website allows members of the public to receive alerts when changes or additions occur in a docket folder. To subscribe: 1) navigate to the docket folder (NRC-2023-0085); 2) click the “Subscribe” link; and 3) enter an email address and click on the “Subscribe” link.

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Hazardous waste, Indians, Intergovernmental relations, Nuclear energy, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; the Nuclear Waste Policy Act of 1982, as amended; and 5 U.S.C. 552 and 553; the NRC is adopting the following amendments to 10 CFR part 72:

**PART 72 - LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF
SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-
RELATED GREATER THAN CLASS C WASTE**

1. The authority citation for part 72 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 223, 234, 274 (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2210e, 2232, 2233, 2234, 2236, 2237, 2238, 2273, 2282, 2021); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); National Environmental Policy Act of 1969 (42 U.S.C. 4332); Nuclear Waste Policy Act of 1982, secs. 117(a), 132, 133, 134, 135, 137, 141, 145(g), 148, 218(a) (42 U.S.C. 10137(a), 10152, 10153, 10154, 10155, 10157, 10161, 10165(g), 10168, 10198(a)); 44 U.S.C. 3504 note.

2. In § 72.214, Certificate of Compliance No. 1031 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1031.

Initial Certificate Effective Date: February 4, 2009, superseded by Initial Certificate, Revision 1, on February 1, 2016, superseded by Initial Certificate, Revision 2, on **[INSERT DATE 75 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

Amendment Number 1 Effective Date: August 30, 2010, superseded by Amendment Number 1, Revision 1, on February 1, 2016, superseded by Amendment Number 1, Revision 2, on **[INSERT DATE 75 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

Amendment Number 2 Effective Date: January 30, 2012, superseded by Amendment Number 2, Revision 1, on February 1, 2016, superseded by Amendment Number 2, Revision 2, on **[INSERT DATE 75 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

Amendment Number 3 Effective Date: July 25, 2013, superseded by Amendment

Number 3, Revision 1, on February 1, 2016, superseded by Amendment Number 3, Revision 2, on **[INSERT DATE 75 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

Amendment Number 4 Effective Date: April 14, 2015, superseded by Amendment Number 4, Revision 1, on **[INSERT DATE 75 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

Amendment Number 5 Effective Date: June 29, 2015, superseded by Amendment Number 5, Revision 1, on **[INSERT DATE 75 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

Amendment Number 6 Effective Date: December 21, 2016, superseded by Amendment Number 6, Revision 1, on **[INSERT DATE 75 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

Amendment Number 7 Effective Date: August 21, 2017, as corrected (ADAMS Accession No. ML19045A346), superseded by Amendment Number 7, Revision 1, on **[INSERT DATE 75 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

Amendment Number 8, Effective Date: March 24, 2020, superseded by Amendment Number 8, Revision 1, on **[INSERT DATE 75 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

Amendment Number 9, Effective Date: December 7, 2020, superseded by Amendment Number 9, Revision 1, on **[INSERT DATE 75 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

Amendment Number 10, Effective Date: January 18, 2023.

Amendment Number 11, Effective Date: **[INSERT DATE 75 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

Amendment Number 12, Effective Date: **[INSERT DATE 75 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

SAR Submitted by: NAC International, Inc.

SAR Title: Final Safety Analysis Report for the MAGNASTOR® System.

Docket Number: 72-1031.

Certificate Expiration Date: February 4, 2029.

Model Number: MAGNASTOR®.

* * * * *

Dated: July 18, 2023.

For the Nuclear Regulatory Commission.

Daniel H. Dorman,
Executive Director for Operations.

[FR Doc. 2023-16138 Filed: 7/28/2023 8:45 am; Publication Date: 7/31/2023]